

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2186.05
COMPLAINT INVESTIGATOR:	Jennifer Campbell
DATE OF COMPLAINT:	October 19, 2004
DATE OF REPORT:	November 15, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	December 15, 2004

COMPLAINT ISSUES:

Whether the Indianapolis Public Schools violated:

511 IAC 7-27-4(a)(5) by failing to convene the Student's case conference committee (CCC) within ten instructional days of the enrollment date of a student who has been receiving special education in another district within the state.

511 IAC 7-27-7(c)(3) by failing to implement the Student's individualized education plan (IEP) immediately upon enrollment from another district within the state.

511 IAC 7-27-7(a) by failing to implement the Student's IEP as written, specifically, failing to implement the behavioral intervention plan (BIP) as written, including the requirement of the BIP to contact the teacher of record (TOR) or parent before suspending the Student.

FINDINGS OF FACT:

1. The Student has been identified as having a health impairment and determined eligible for special education and related services.
2. On August 20, 2004, the Student enrolled in the School from another district within the state. The Student's case conference committee (CCC) convened on September 20, 2004. The School acknowledges that the CCC failed to convene within ten instructional days.
3. The Student's individualized education program (IEP), including the behavior intervention plan (Existing BIP) from the previous school district was in effect at the beginning of the 2004-2005 school year. The School acknowledges that the Student's Existing BIP was not implemented immediately upon enrollment.
4. Before the first CCC meeting of the 2004-2005 school year, the School imposed four in-school suspensions and one four-day out-of-school suspension. The Student returned to School on September 21, 2004.
5. The Complainant alleges that the Existing BIP required the School to contact the teacher of record or the Complainant before suspending the Student. Informing Complainant by e-mail of Student's inappropriate behavior was one of seven consequences authorized by the Existing BIP. The Existing BIP does not require the teacher of record or the Complainant to be contacted before suspending the Student. In-school suspensions and out-of-school suspensions are also permissible consequences under the Existing BIP.

6. At the September 20, 2004, CCC meeting, the CCC revised the IEP and the BIP (New BIP). The New BIP specifies that teachers will review all classroom rules and expectations with the Student; discuss appropriate ways to ask for assistance; discuss ways to be responsible for actions and help Student understand what that means; discuss social skills; place Student in an area in the classroom for a time out; and not issue any passes to the Student. Contacting the Complainant is one of five consequences or reduction strategies authorized by the New BIP. The New BIP does not require the teacher of record or the Complainant to be contacted before suspending the Student. In-school suspensions and out-of-school suspensions are also permissible consequences under the New BIP.
7. During the period beginning September 21, 2004, and ending October 11, 2004, the School imposed four in-school suspensions as well as two one-day out-of-school suspensions. The Student was referred to truancy court on October 11, 2004.
8. The School did not provide documentation to show implementation of the New BIP. It is noted that the Student was absent at least eight full days in addition to the days of suspension.

CONCLUSIONS:

1. Finding of Fact #2 indicates the School failed to convene the CCC within ten instructional days of the enrollment date of the Student. Therefore, a violation of 511 IAC 7-27-4(a)(5) is found.
2. Finding of Fact #3 indicates that the School failed to implement the Student's IEP immediately upon enrollment from another district within the state. Therefore, a violation of 511 IAC 7-27-7(c)(3) is found.
3. Findings of Fact #4, #5, #6, and #7 indicate that the School did not fail to implement the Existing BIP or the New BIP by failing to contact the teacher of record or the Complainant prior to suspending the Student. Nevertheless, Findings of Fact #3 and #8 indicate that the School failed to implement the Existing BIP and the New BIP. Therefore, a violation of 511 IAC 7-27-7(a) is found.

The Indiana Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Indianapolis Public schools shall:

1. Provide a memorandum to appropriate staff regarding the requirement of 511 IAC 7-27-4(a)(5), to convene a student's CCC within ten instructional days of the enrollment date of a student who has been receiving special education in another district within the state.
2. Provide a memorandum to appropriate staff regarding the requirement of 511 IAC 7-27-7(c)(3), to implement a student's IEP immediately upon enrollment from another district within the state.
3. Document the implementation of the Student's BIP by logging the positive programming and reinforcement strategies as well as collecting the data required by the evaluation section of the BIP.

Documentation of compliance (consisting of copies of the memoranda and a two-week sample of the documentation of the BIP) shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by December 22, 2004.